

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TO: The Honorable Aleta A. Trauger

REPORT AND RECOMMENDATION

Defendants Henry, McLeskey and Steel have filed their motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure. (Docket Entry No. 27). Plaintiff has filed her response in which she agrees that the complaint against defendants Henry, McLeskey and Steel only should be dismissed, and she expressly opposes dismissal of her claims against defendant Eagen. (Docket Entry No. 31).

This case was referred to the Magistrate Judge for report and recommendation on dispositive motions (Docket Entry No. 4), and was thereafter reassigned to the undersigned. (Docket Entry No. 8).

For the reasons stated in defendants' memorandum in support of their motion to dismiss (Docket Entry No. 28), and without opposition by plaintiff, the undersigned Magistrate Judge finds that the complaint fails to state a claim against defendants Henry, McLeskey and Steel.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that the motion to dismiss on behalf of defendants Henry, McLeskey and Steel be **GRANTED**, and that the complaint against these three defendants only be **DISMISSED**.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'q denied, 474 U.S. 1111 (1986).

ENTERED this 19th day of August 2008.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge